

REMARKS / ARGUMENTS

Claims 1-33 are pending in the instant application, of which claims 31-33 are new claims. Claims 1-3, 8-13, 18-23 and 28-30 have been amended to clarify the claim language. The Applicant points out that the amendments to the respective claims are supported at least in Figs. 6a-6b, and the related description in paragraphs 48-49. Claims 1-9, 11-19 and 21-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 7,225,247 ("Kenndy") in view of USPP 2003/0069975 ("Abjanic"). Claims 10, 20 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy, Abjanic and further in view of USP 6,208,647 ("Deng"). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Kennedy and Abjanic Does Not Render Claims 1-9, 11-19 and 21-29 Unpatentable

The Applicant now turns to the rejection of claims 1-9, 11-19 and 21-29 under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Abjanic.

A. Independent Claims 1, 11 and 21

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Kennedy and Abjanic does not disclose or suggest at least the limitation of “modifying said at least one packet from said first blade

server by changing said first identifier within said header portion," or "routing via said common switch, at least a portion of said modified at least one received packet from said first blade server to at least said second blade server, based on said header portion of said modified at least one received packet," as recited by the Applicant in independent claim 1.

In the Final Office Action, the Examiner states the following:

"As per claims 1, 11, and 21, Kennedy discloses a method for communicating information in a server, the method comprising: receiving at a common switch, at least one packet (Col 5 line 49-Col 6 line 11; Management controller 120 packetizes the information) from a first blade server of a plurality of blade servers, wherein said at least one packet is designated for at least a second blade server of said plurality of blade servers, and wherein said first blade server and said at least a second blade server are coupled to common switch via a common bus (Col 5 line 49- Col 6 line 11; Chassis management module 580 orchestrates the exchange of management information between blade servers 500 through 500G; Figure 5: Items 500A-500G)."

See the Final Office Action at page 4. The Examiner relies on Kennedy's Fig. 5 to disclose the alleged "common switch", "first and second blade servers", "common bus" and "common bus". The Examiner concedes the following:

"Kennedy fails to disclose determining at least a first identifier identifying said common switch, a second identifier identifying said first blade server, and at least a third identifier identifying said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet; and routing via said common switch, at least a portion of said at least one received packet to at least said second blade server, based on said determined first, second and third identifiers from said header portion of said at least one received packet."

See the Final Office Action at page 4. The Examiner looks to Abjanic to disclose Kennedy's above deficiencies, namely, the alleged respective "first, second and third identifiers located within a header portion of the received packet". More specifically, the Examiner states the following regarding Applicant's arguments in the 5/15/09 response:

"Applicants argues and maintains the same arguments as the 5/15/09 response that Abjanic does not disclose or suggest at least the limitation of "determining at least a first identifier identifying said common switch, a second identifier identifying said first blade server and at least a third identifier identifying at least said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet; and routing via said common switch, at least a portion of said at least one received packet to at least said second blade server, based on said determined first, second and third identifiers from said header portion of said received at least one packet"

Examiner asserts that Abjanic discloses per [0073], " Because content based message director 145 may be optional in some instances, switch 165 may switch the transformed message using address-based routing or switching techniques, such as switching to a particular output port of switch 165 based on source and/or destination address and port numbers provided in the message or provided in a header of a packet carrying the message."

The port number is equated as the initial destination address which is specified in the header of the packet as it serves as an identifier of the switch through which the message is routed through. Examiner argues that the port number is an identifier of a switch. The port numbers, which refer to the physical ports of the switch, is equated as one of the multitude of identifiers of the switch. With respect to claim limitations that the first, second and third identifier are located in a header of a message, the above passage clearly states it per [0073], " such as switching to a particular output port of switch 165 based on source and/or destination address and port numbers provided in the message or provided in a header of a packet carrying the message" Therefore, the source, port number, and the destination address is equated as the first, second and third identifiers, and all three identifiers are provided in the headers of the message as shown above. Examiner has addressed this argument in the previous office action as well."

See the Final Office Action at pages 4-5. The Examiner equates Abjanic's switch port number and server S1 to S3 addresses in a XML message header to disclose the alleged respective "first, second and third identifiers located within a header portion of the received packet". The Applicant disagrees that Abjanic's switch port number is the alleged "first identifier", since the port number is merely a location of the port of the alleged switch without identifying the switch itself.

Nevertheless, assuming *arguendo*, that the switch port number is the alleged "first identifier", the Applicant points out that neither Kennedy nor Abjanic, discloses **"modifying said at least one packet from said first blade server by changing said first identifier within said header portion,"** as recited in Applicant's claim 1. Claim 1 is therefore, submitted to be allowable.

Consequently, based on the foregoing rationale, the combination of Kennedy and Abjanic also does not disclose or suggest **"routing via said common switch, at least a portion of said modified at least one received packet from said first blade server to at least said second blade server, based on said header portion of said modified at least one received packet,"** as recited by the Applicant in independent claim 1.

Based on the foregoing rationale, the Applicant maintains that the combination of Kennedy and Abjanic does not establish a *prima facie* case of obviousness to reject Applicant's claim 1. Claim 1 is, therefore, submitted to be allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in claim 1.

Therefore, the Applicant submits that claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Dependent Claims 2-9, 12-19 and 22-29

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Additionally, claims 2-9, 12-19 and 22-29 depend directly or indirectly from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

III. The Proposed Combination of Kennedy, Abjanic and Deng Does Not Render Claims 10, 20 and 30 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Deng does not overcome the above deficiencies of Kennedy and Abjanic. Therefore, claims 10, 20 and 30 are submitted to be allowable. Additionally, claims 10, 20 and 30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

III. Arguments to New Claims 31-33

In addition to the above arguments to claim 1, the Applicant further points out that the combination of Kennedy, Abjanic and Deng does not disclose or suggest the limitation of "overwriting said header portion, said first identifier with said third identifier located within said modified at least one packet, by said common switch". Accordingly, claims 31-33 are submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-33.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-33 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: March 25, 2010

/Frankie W. Wong/

Frankie W. Wong
Registration No. 61,832
Patent Agent for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 775-8093 (FWW)